



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/697,920

10/30/2003

Craig Henry Becker

AUS920030827US1

9648

35525 7590 05/01/2007

IBM CORP (YA)  
C/O YEE & ASSOCIATES PC  
P.O. BOX 802333  
DALLAS, TX 75380

EXAMINER

SAUNDERS JR, JOSEPH

ART UNIT

PAPER NUMBER

2615

MAIL DATE

DELIVERY MODE

05/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/697,920	Applicant(s) BECKER, CRAIG HENRY	
	Examiner Joseph Saunders	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-30-03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This is the initial office action based on the application filed October 30, 2003.

Claims 1 – 22 are currently pending and considered below.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 – 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17 is seeking protection for a “computer program product” and such claimed computer programs do not define any structural interrelationships between the computer program and other claimed elements of a computer which permit the computer program’s functionality to be realized. In contrast, a claimed “computer-readable medium encoded with a computer program” is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. The specification also defines the “computer readable medium” including “radio frequency” and “light wave transmission” which is nonstatutory.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2615

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bharati (Meditation and Self-Awareness CDs, <http://swamij.com/cd-timer.htm>) retrieved from <http://web.archive.org/> as it appeared on October 22, 2002, hereinafter Bharati.

**Claim 8:** Bharati discloses a method for indicating termination of a session, the method comprising: selecting an optical disc (Meditation Timer CD) for a session of a selected period of time (“the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute”) wherein the optical disc has a track with a silent segment followed an audio segment equal in length to the selected period of time, wherein the silent segment is longer than the audio segment (“This CD is extremely simple. It is like a clock, an “OM Clock” in which there is the voice of a single OM, followed by complete silence, and then ending with a single OM.”); and playing the track on the optical disc using an optical display player when the session begins (“All you have to do is click the track number on your CD player that matches the length of time of the practice.”), wherein termination of the session is indicated when the audio segment is encountered (The single OM at the end of the track indicates the end of mediation time.).

**Claim 9:** Bharati discloses the method of claim 8, and Bharati further discloses wherein the selected period of time is 15 minutes, 30 minutes (“30-Minute”), 45 minutes, or 60 minutes.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bharati.

**Claim 10:** Bharati discloses the method of claim 8, but *does not disclose* wherein the silent segment is 59 minutes long and the audio segment is 1 minute long for a 60 minute session. It would have been an obvious matter of design choice to include a silent segment of any duration followed by an audio segment of any duration, since the only purpose of the audio segment is to indicate the end of a period of time and therefore it appears that the method would perform equally well with silence and audio segments of any duration, for example the long period of silence followed by an "OM" totaling 5, 10, 20, and 30 minutes as disclosed by Bharati.

**Claim 11:** Bharati discloses the method of claim 8 but *does not disclose* the method further comprising: counseling a client during the length of the session. It would have been an obvious matter of design choice to counsel a client during the length of the session since the propose of the invention is to indicate the end of a period of time and

Art Unit: 2615

therefore it appears as if the method would perform equally well if one were performing another act during the session, for example meditating as discloses by Bharati.

7. Claims 1, 3 – 7, 12, 14 – 17, and 19 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bharati in view of James (US 6,910,038 B1), hereinafter James.

**Claims 1, 12, 17, and 22:** Bharati discloses a method in a data processing system for indicating an end of a session, the method comprising: an audio file that has a length equal to a length of a session ("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute"), wherein the audio file includes a silent segment followed by an audio segment ("This CD is extremely simple. It is like a clock, an "OM Clock" in which there is the voice of a single OM, followed by complete silence, and then ending with a single OM.") and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file (The single OM at the end of the track indicates the end of mediation time.). Bharati *does not disclose* receiving an identification of a session from a data structure containing a schedule; and responsive to receiving the identification of the session, creating an audio file on a storage medium. Since Bharati discloses the product of a CD containing an audio file that has a length equal to a length of a session, wherein the audio file includes a silent segment followed by an audio segment and wherein the audio segment provides an indication of the end

of the session when encountered during playing of the audio file but does not disclose how to make such a CD, one would be inclined to look elsewhere for such a teaching.

James discloses a process, an apparatus, a system, a device, a method, and a computer readable media (Column 3 Lines 3 – 6) for recording to an optical media and further discloses, "Optical disc recording commonly involves recording (sometimes referred to as "burning) audio tracks or data files on one or more spiral tracks on an optical disc, Column 1 Lines 26 – 30. Although not explicitly disclosed a host system (computer system) contains a bus as illustrated in Figure 2A connecting the blocks 102, 202, 204, 112, and 114, a memory stores the CD recording software application or instructions connected to the bus, and processing occurs based on the instructions therefore a processing unit is also present in order to complete the task of recording an optical disc (Column 1 Line 36 – Column 2 Line 30). James also discloses, "the ordering data structures (schedule) are passed from the file system database block 202 (data structure) to the CD recording engine 204 in the order in which the associated data files (sessions) will be written to the optical disc. In one embodiment, the CD recording engine 204 then follows the pointers (identification of a session) of the ordering data structures (schedule) and begins reading the data files (sessions) into the optical CD recording circuitry 112. It is the CD recording circuitry 112 that accomplishes the actual writing or burning of the data files (sessions) to the optical disc 114," Column 7 Lines 26 – 36.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to make a CD containing an audio file that has a length equal to a

length of a session, wherein the audio file includes a silent segment followed by an audio segment and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file as disclosed by Bharati using the method disclosed by James where after receiving an identification (pointer) of a session (data file) from a data structure (file system database block) containing a schedule (ordering data structure), creating an audio file on a storage medium (CD) since using the James' teaching "provides for a method for processing files that minimizes the generation of lists that catalog location and attribute information about each data file before writing to the optical disc media," Column 2 Line 66 – Column 3 Line 2.

**Claims 3, 14, and 19:** Bharati and James disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and James further discloses wherein the receiving step comprises: receiving an identification of the session from a scheduling program (Column 3 Lines 25 – 37).

**Claims 4, 15, and 20:** Bharati and James disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and Bharati further discloses wherein the storage medium is one of a compact disc ("CD"), a digital versatile disc, a flash memory, or an audio tape.



**Claims 5, 16, and 21:** Bharati and James disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and Bharati further discloses wherein the audio segment is music (the chant "OM").

**Claim 6:** Bharati and James disclose the method of claim 1, but *do not disclose* wherein the silent segment is 59 minutes long and the audio segment is 1 minute long for a 60 minute session. It would have been an obvious matter of design choice to include a silent segment of any duration followed by an audio segment of any duration, since the only purpose of the audio segment is to indicate the end of a period of time and therefore it appears that the method would perform equally well with silence and audio segments of any duration, for example the long period of silence followed by an "OM" totaling 5, 10, 20, and 30 minutes as disclosed by Bharati.

**Claim 7:** Bharati and James disclose the method of claim 1, and Bharati further discloses wherein a plurality of audio files are created on the optical disc ("There are five tracks on the CD.") in which each audio file corresponds to a session for a user ("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute" and "All you have to do is click the track number on your CD player that matches the length of time of the practice.").

Art Unit: 2615

8. Claims 2, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bharati and James in view of Johnson et al. (US 2003/0151618 A1), hereinafter Johnson.

**Claims 2, 13, and 18:** Bharati and James disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, but *do not disclose* wherein the data structure is a file for a calendar program. Johnson discloses "preparing commonly accessed data for presentation in a familiar format, and more particularly, to building media playlists from various types and associating the playlists with a common user interface on a media player," Paragraph 2. Johnson further discloses where "in general, playlists 220 and 22 are customized lists of content that contain files (or point to files) specified by a user for playback on a media player 102," and goes on that "a user can define a playlist that includes a digest of stories from news-oriented Web site, emails from an email inbox, appointments from a calendar, and so on," Paragraph 48. Figure 7 further illustrates "an audio file playlist 222 of "Calendar" appointment playlist entries taken from the XML-formatted text playlist 224 of Fig. 6," Paragraph 57. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to prepare the playlist of Bharati and James using a "Calendar" as disclosed by Johnson enabling audio tracks to be burned from the playlist where the playlist corresponds to appointment times from a calendar program, thereby permitting easy access and reducing the level of user interaction needed to prepare such commonly accessed data (Paragraph 8).

Art Unit: 2615

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JS  
April 24, 2007

EXAMINER

5



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**